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EXAMINER

FOSTER, CHRISTINE E

ART UNIT

PAPER NUMBER

1641

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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Continuation of Substance of Interview including description of the general nature of what was discussed:

Applicant proposed amendments to claim 25 to recite that the level of mid-proAM is employed as a measure of the physiological production of AM (see attached).

Such amendments would require further consideration and/or search; however, the examiner suggested that in order to ensure that the amendments would clearly limit the scope of the claim, that an active method step be recited rather than a "wherein" clause (e.g., "employing said level as a measure of the physiological production of AM"). See MPEP 2111.04.

Also discussed was whether the proposed amendments would distinguish over the prior art references applied. The examiner noted that the claim language "said level is employed as a measure of the physiological production of AM" does not clearly require that the mid-proAM level is being used as a proxy or surrogate in order to quantify the level of AM. The claim language could be interpreted simply as meaning that the level of mid-proAM is being used to infer the existence of AM. For these reasons, the claim language may not distinguish over the art of record. In particular, since it was known that mid-proAM and AM are produced from the same precursor, one of ordinary skill in the art would have reasonably concluded that the production of mid-proAM would mean that AM was also produced. Given the breadth of the claim language, this alone could satisfy the claim. However, further consideration will be given upon filing of a response.

The examiner also suggested that claim 8 be amended in order to employ closed transitional language in reference to the SEQ ID NO:4 and SEQ ID NO:5 peptides.